



IRA A. JACKSON  
COMMISSIONER

# *The Commonwealth of Massachusetts*

## *Department of Revenue*

*Leverett Saltonstall Building*

*100 Cambridge Street, Boston 02204*

August 21, 1984

You request a ruling regarding the application of the Massachusetts sales tax to sales of products of ("Company"), a multilevel marketing company. You state that your intention is for the Company to collect and pay sales tax on the suggested retail prices on behalf of its independent distributors.

You state that the Company sells to its distributors vitamin tablets, protein powder, fiber wafers, skin care products, and printed sales aids and literature.

Chapter 64H, Section 2 of the Massachusetts General Laws imposes a five percent sales tax on all retail sales of tangible personal property, unless otherwise exempted. Vitamin tablets, protein powder, fiber wafers, skin care products, and printed sales aids and literature are all tangible personal property.

Section 6(h) of Chapter 64H exempts from the sales tax sales of food products sold for human consumption, but excludes from the definition of food products "medicines, tonics and preparations in liquid, powdered, granular, tablet, capsule, lozenge and pill form sold as dietary supplements or adjuncts." The Company's vitamin tablets, protein powder, and fiber wafers are all sold as dietary supplements and thus do not meet the definition of "food products."

Since the vitamin tablets, protein powder, and fiber wafers are not "food products" within the meaning of Chapter

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64H, Section 6(h), and none of the Company's products are exempted under any other provision, all retail sales of the Company's products are subject to the sales tax.

Letter Ruling 80-77 is henceforth revoked in so far as it ruled that sales of fiber wafers and "Pro-Lecin Nibblers" are not subject to sales tax.

In regard to your intention to collect the sales tax from each distributor, please contact Mr. William Halmkin, Deputy Commissioner for Operations. His office will determine whether the Company may pay the sales tax directly to the Commissioner on behalf of its distributors.

Very truly yours,

A handwritten signature in dark ink, appearing to read "H. O. Jackson". The signature is written in a cursive style with a large, stylized initial "H".

Commissioner of Revenue

IAJ:JES:mf

LR 84-63